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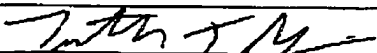
TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>	Application Number	10/658,769	
	Filing Date	Sep 10, 2003	
	First Named Inventor	WOOD, Thomas J.	
	Art Unit	3743	
	Examiner Name	Mitchell	
Total Number of Pages in This Submission	5	Attorney Docket Number	IMED-0010-US

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input checked="" type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below): STATEMENT UNDER 37 CFR 3.73(b)
Remarks _____ Response to Restriction Requirement		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Customer Number 40575
Signature	Timothy J. Maier, Reg. No. 51,986
Date	December 6, 2004

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Date	December 6, 2004

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DEC 06 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT : WOOD CONF. NO.: 4079
SERIAL NO.: 10/658,769 GROUP: 3743
FILED: Sept. 10, 2003 EXAMINER: MITCHELL, Teena
FOR: Nasal Ventilation Interface and System Including Ventilation Inserts
DOCKET NO.: IMED-00010-US

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Responsive to the Examiner's Restriction Requirement dated 11/9/04, the following remarks are respectfully submitted in connection with the above-referenced application.

REMARKS

The Examiner required restriction of one of the following inventions:

- I. Claims 1-23, and 28, 30 and 31, drawn to a ventilation interface, classified in class 128, subclass 207.18.
- II. Claims 24-27, and 29, drawn to a feed tube classified in class 128, subclass 912.

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In response to the Examiner's restriction/election requirement, Applicant elects, with traverse, to prosecute Group I including claims 1-23, 28, 30 and 31. Applicant specifically reserves the right to file a divisional application directed to non elected claims 24-27 and 29.

With respect to Applicant's traversal, Applicant respectfully directs the Examiner's attention to M.P.E.P. § 803 which states:

"If the search and examination of an entire application can be made without serious burden, the Examiner must examine on the merits, even though it includes claims too distinct or independent invention." (emphasis added)

There are two criteria for a proper requirement for restriction. The invention should be independent or distinct, and

"2) there must be a serious burden on the Examiner if a restriction is not required. See M.P.E.P. §803.092, 806.04 A through J, 808.01(a) and 808.02."

Applicant respectfully submits that the Examiner would not be unduly burdened if forced to examine Groups I and II.

For all of the above stated reasons, reconsideration and withdrawal of the outstanding restriction/election requirement and favorable allowance of all claims in the instant application are earnestly solicited.

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If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No.50-3136 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Very truly yours,

KEADY, OLDS & MAIER, PLLC

By 
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